

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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NANCY L. NAGLE,

Plaintiff,

07 CIV. 2860 (SCR)

- against -

PAULA MARRON, individually, PAUL  
R. FRIED, individually, STEVEN CASTAR,  
individually, ROSEMARY COLETTI,  
individually, BARBARA MERLING,  
individually, and the MAMARONECK  
UNION FREE SCHOOL DISTRICT,  
New York,

**DECLARATION IN  
SUPPORT OF DEFENDANT'S  
MOTION TO DISMISS**

Defendants.

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LEWIS R. SILVERMAN, an attorney duly admitted to practice law in the United States District Court for the Southern District of New York, hereby deposes and says subject to the penalties of perjury:

1. I am a member of the law firm of RUTHERFORD & CHRISTIE, LLP, attorneys for the defendant, PAULA MARRON. I am fully familiar with the facts and circumstances of this matter based on my review of the file maintained by my office in defense of this litigation.

2. This declaration is submitted in support of the defendant's Motion to Dismiss pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, seeking a dismissal of the plaintiff's Complaint against the defendant in its entirety, with prejudice, and for such other and further relief as this Court deems just and proper.

3. The plaintiff was a probationary Special Education Teacher in the Mamaroneck Union Free School District (hereinafter "the District") since 2004. See Exhibit "A", at ¶ 3.

4. Prior to her employment with the District, the plaintiff was employed by the Henrico County Public Schools (hereinafter “Henrico Schools”). During her employment with the Henrico Schools the plaintiff’s statements regarding the abuse of students by another teacher in the Henrico Schools were widely reported in the media. The defendants allegedly became aware of this in the Fall, 2006. See Exhibit “A”, at ¶ 10.

5. On December 7, 2006 defendant Marron performed an observation of the plaintiff. A copy of the written report of the observation was provided to the plaintiff. See Exhibit “B”.

6. The plaintiff alleges defendant Marron forged her signature on the observation Report and that she confronted defendant Marron and the District about the alleged forgery. See Exhibit “A”, at ¶ 11-14.

7. The plaintiff was denied tenure with the District on or about March 2, 2007. See Exhibit “A”, at ¶ 16.

8. The plaintiff commenced the instant lawsuit against the defendant by filing a Complaint on April 10, 2007. See Exhibit “A”.

9. The plaintiff is seeking compensatory and punitive damages for the alleged violation of her rights under the First Amendment of the United States Constitution, as made actionable under 42 U.S.C. § 1983. See Exhibit “A”, at ¶¶ 1,19.

10. Specifically, the plaintiff alleges the defendants’ denied her tenure in retaliation for her prior speech while employed at the Henrico and the accusations of forgery she made against defendant Marron. See Exhibit “A”, at ¶¶ 15-16, 18-19.

11. As is more fully explained in the accompanying Memorandum of Law, the plaintiff's Complaint should be dismissed under Rule 12(b)(6) of the Federal Rules of Civil Procedure for failure to state a claim upon which relief can be granted against defendant Marron.

Dated: New York, New York  
July 25, 2007

S/ Lewis R. Silverman  
Lewis R. Silverman (LS 9723)